

U.S. 246, 256–66 (S. Ct. 1976); 42 U.S.C. 7410(a)(2)).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the U.S. Court of Appeals for the appropriate circuit by June 19, 1995. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

#### *Executive Order 12866*

The Office of Management and Budget has exempted this action from review under Executive Order 12866.

#### **List of Subjects in 40 CFR Part 52**

Environmental protection, Air pollution control, Hydrocarbons, Intergovernmental relations, Nitrogen dioxide, Ozone, Volatile organic compounds.

Dated: April 12, 1995.

**Carol M. Browner,**  
*Administrator.*

40 CFR part 52 is amended as follows:

#### **PART 52—[AMENDED]**

1. The authority citation for part 52 continues to read as follows:

**Authority:** 42 U.S.C. 7401–7671q.

#### **Subpart SS—Texas**

2. Section 52.2308 is amended by adding paragraph (d) to read as follows:

##### **§ 52.2308 Area-wide nitrogen oxides (NO<sub>x</sub>) exemptions.**

\* \* \* \* \*

(d) The TNRCC submitted to the EPA on August 17, 1994, with supplemental information submitted on August 31, 1994, and September 9, 1994, a petition requesting that the Houston and Beaumont ozone nonattainment areas be temporarily exempted from the NO<sub>x</sub> control requirements of section 182(f) of the CAA. The Houston nonattainment area consists of Brazoria, Chambers, Fort Bend, Galveston, Harris, Liberty, Montgomery, and Waller counties. The Beaumont nonattainment area consists of Hardin, Jefferson, and Orange counties. The exemption request was based on photochemical grid modeling which shows that reductions in NO<sub>x</sub> would not contribute to attaining the ozone NAAQS. On April 12, 1995, the

EPA approved the State's request for a temporary exemption. Approval of the temporary exemption waives the federal requirements for NO<sub>x</sub> Reasonably Available Control Technology (RACT), New Source Review (NSR), conformity, and vehicle inspection and maintenance (I/M) for the period of the temporary exemption. The temporary exemption automatically expires on December 31, 1996, without further notice from the EPA. Based on the rationale provided in the notice of proposed rulemaking on this action, upon the expiration of the temporary exemption, the requirements pertaining to NO<sub>x</sub> RACT, NSR, conformity, and I/M will again become applicable, except that the NO<sub>x</sub> RACT implementation date applicable to the Houston and Beaumont nonattainment areas under section 182(f) shall be as expeditious as practicable but no later than May 31, 1997, unless the State has received a permanent NO<sub>x</sub> exemption from the EPA prior to that time.

[FR Doc. 95–9567 Filed 4–18–95; 8:45 am]

BILLING CODE 6560–50–P

#### **40 CFR Part 52**

[CA 144–4–6973b; FRL–5194–6]

#### **California State Implementation Plan Revision Interim Final Determination that State has Corrected Deficiencies**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Interim final determination.

**SUMMARY:** Elsewhere in today's **Federal Register**, EPA has published a notice of proposed rulemaking fully approving revisions to the California State Implementation Plan. The revisions include a rule from the South Coast Air Quality Management District (SCAQMD): SCAQMD Rule 1153, Commercial Bakery Ovens. Based on the proposed full approval, EPA is making an interim final determination by this action that the State has corrected the deficiency for which sanctions clocks were activated on September 29, 1993. This action will defer the application of the offset sanctions and defer the application of the highway sanctions. Although the interim final action is effective upon publication, EPA will take comment. If no comments are received on EPA's proposed approval of the State's submittal, EPA will finalize its determination that the State has corrected the deficiency that started the sanctions clocks by publishing a final action in the **Federal Register**. If comments are received on EPA's proposed approval and this interim final

action, EPA will publish a final action taking into consideration any comments received.

**DATES:** Effective Date: April 19, 1995.

Comments: Comments must be received by May 19, 1995.

**ADDRESSES:** Comments should be sent to: Daniel A. Meer, Rulemaking Section (A–5–3), Air and Toxics Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105.

The State submittal and EPA's analysis for that submittal, which are the basis for this action, are available for public review at the above address and at the following locations:

California Air Resources Board,  
Stationary Source Division, Rule  
Evaluation Section, 2020 "L" Street,  
Sacramento, CA 95814.  
South Coast Air Quality Management  
District, 21865 E. Copley Drive,  
Diamond Bar, CA 91765–4182.

**FOR FURTHER INFORMATION CONTACT:**  
Christine Vineyard, Rulemaking Section (A–5–3), Air and Toxics Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105. Telephone: (415) 744–1197.

#### **SUPPLEMENTARY INFORMATION:**

##### **I. Background**

On May 13, 1991, the State submitted SCAQMD Rule 1153, Commercial Bakery Ovens, which EPA disapproved in part on September 29, 1993. 58 FR 50850. EPA's disapproval action started an 18-month clock for the imposition of one sanction (followed by a second sanction 6 months later) and a 24-month clock for promulgation of a Federal Implementation Plan (FIP). The State subsequently submitted a revised rule on February 24, 1995. The revised rule was adopted by the SCAQMD on January 13, 1995. In the Proposed Rules section of today's **Federal Register**, EPA has proposed full approval of the State of California's submittal of SCAQMD Rule 1153, Commercial Bakery Ovens.

Based on the proposed approval set forth in today's **Federal Register**, EPA believes that it is more likely than not that the State has corrected the original disapproval deficiency. Therefore, EPA is taking this interim final rulemaking action, effective on publication, finding that the State has corrected the deficiency. However, EPA is also providing the public with an opportunity to comment on this final action. If, based on any comments on this action and any comments on EPA's proposed full approval of the State's submittal, EPA determines that the State's submittal is not fully approvable

and this final action was inappropriate, EPA will either propose or take final action finding that the State has not corrected the original disapproval deficiency. As appropriate, EPA will also issue an interim final determination or a final determination that the deficiency has not been corrected. Until EPA takes such an action, the application of sanctions will continue to be deferred and/or stayed.

This action does not stop the sanctions clock that started for this area on September 29, 1993. However, this action will defer the application of the offsets sanctions and will defer the imposition of the highway sanctions. See 59 FR 39832 (Aug. 4, 1994). If EPA publishes a notice of final rulemaking fully approving the State's submittal, such action will permanently stop the sanctions clock and will permanently lift any applied, stayed or deferred sanctions. If EPA must withdraw the proposed full approval based on adverse comments and EPA subsequently determines that the State, in fact, did not correct the disapproval deficiency, the sanctions consequences described in the sanctions rule will apply. See 59 FR 39832, to be codified at 40 CFR 52.31.

## II. EPA Action

EPA is taking interim final action finding that the State has corrected the disapproval deficiency that started the sanctions clocks. Based on this action, imposition of the offset sanctions will be deferred and imposition of the highway sanctions will be deferred until EPA's final action fully approving the State's submittal becomes effective or until EPA takes action proposing or disapproving in whole or part the State submittal. If EPA's proposed rulemaking action fully approving the State submittal becomes final, at that time any sanctions clocks will be permanently stopped and any applied, stayed or deferred sanctions will be permanently lifted.

Because EPA has preliminarily determined that the State has corrected the deficiency identified in EPA's limited disapproval actions, relief from sanctions should be provided as quickly as possible. Therefore, EPA is invoking the good cause exception under the Administrative Procedure Act in not providing an opportunity for comment before this action takes effect.<sup>1</sup> 5 U.S.C. 553(b)(3). EPA believes that notice-and-comment rulemaking before the effective date of this action is

impracticable and contrary to the public interest. EPA has reviewed the State's submittal and, through its proposed action is indicating that it is more likely than not that the State has corrected the deficiencies that started the sanctions clocks. Therefore, it is not in the public interest to initially impose sanctions or to keep applied sanctions in place when the State has most likely done all it can to correct the deficiencies that triggered the sanctions clocks.

Moreover, it would be impracticable to go through notice-and-comment rulemaking on a finding that the State has corrected the deficiencies prior to the rulemaking approving the State's submittal. Therefore, EPA believes that it is necessary to use the interim final rulemaking process to temporarily stay or defer sanctions while EPA completes its rulemaking process on the approvability of the State's submittal. Moreover, with respect to the effective date of this action, EPA is invoking the good cause exception to the 30-day notice requirement of the APA because the purpose of this notice is to relieve a restriction. See 5 U.S.C. 553(d)(1).

## III. Regulatory Process

Under the Regulatory Flexibility Act, 5 U.S.C. 600 et seq., EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. 603 and 604. Alternatively, EPA may certify that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

This action temporarily relieves sources of an additional burden potentially placed on them by the sanctions provisions of the Act. Therefore, I certify that it does not have an impact on any small entities.

The Office of Management and Budget (OMB) has exempted this action from review under Executive Order 12866.

## List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Intergovernmental relations, Reporting and recordkeeping requirements, Ozone, Volatile organic compounds.

**Authority:** 42 U.S.C. 7401-7671q.

Dated: April 12, 1995.

**John C. Wise,**

*Acting Regional Administrator.*

[FR Doc. 95-9706 Filed 4-18-95; 8:45 am]

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## 40 CFR Part 180

[PP 4F4334/R2114; FRL-4941-2]

RIN 2070-AB78

## Poly-D-Glucosamine (Chitosan); Exemption from the Requirement of a Tolerance

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** This document establishes an exemption from the requirement of a tolerance for residues of the biochemical growth regulator poly-D-glucosamine (hereafter referred to as chitosan) when used as a seed treatment in or on rice. Based on the nontoxic nature of this chemical, the Agency is also establishing an exemption from the requirement of a tolerance for residues of poly-D-glucosamine when used as a pesticide in the production of any raw agricultural commodities. Vanson L.P. requested this exemption.

**EFFECTIVE DATE:** This regulation becomes effective April 19, 1995.

**ADDRESSES:** Written objections, identified by the document control number, [PP 4F4334/R2114], may be submitted to: Hearing Clerk (1900), Environmental Protection Agency, Rm. M3708, 401 M St., SW., Washington, DC 20460. A copy of any objections and hearing requests filed with the Hearing Clerk should be identified by the document control number and submitted to: Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring copy of objections and hearing requests to: Rm. 1132, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA 22202. Fees accompanying objections shall be labeled "Tolerance Petition Fees" and forwarded to: EPA Headquarters Accounting Operations Branch, OPP (Tolerance Fees), P.O. Box 360277M, Pittsburgh, PA 15251.

**FOR FURTHER INFORMATION CONTACT:** By mail: Joanne Miller, Product Manager (PM) 23, Registration Division (7505C), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 237, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA 22202, (703)-305-7830; E-mail: miller.joanne@epamail.epa.gov.

**SUPPLEMENTARY INFORMATION:** In the **Federal Register** of November 2, 1994 (59 FR 54907), EPA issued a notice that Vanson L.P., 8840, 152nd Ave.,

<sup>1</sup> As previously noted, however, by this action EPA is providing the public with a chance to comment on EPA's determination after the effective date and EPA will consider any comments received in determining whether to reverse such action.